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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|-----------------|-------------|----------------------|------------------------------|------------------|
| 09/675,892      | 09/29/2000  | Bruce L. Gibbins     | 01005.0111 -<br>41946.247727 | 3382             |

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EXAMINER

HAMILTON, LALITA M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

09/29/2000

# Office Action Summary

Application No.

09/675,892

Applicant(s)

GIBBINS ET AL.

Examiner

Lalita M Hamilton

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-16 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 17 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### Summary

On January 18, 2002, an Office Action was sent to the Applicant rejecting claims 1-20. On April 29, 2002, the Applicant responded by amending claims 1,7,9-14, and 17-20.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nangia ('190).

Nangia discloses a membrane comprising a scaffolding polymer network, a nongellable polysaccharide, an active agent (col.3, lines 45-47 and col.4, lines 55-60), guar gum, honey locust bean gum, white clover, bean gum, and carob locust bean gum (col.4, lines 5-12), a polyacrylamide (col.3, lines 52-55), a water loss control agent, a plasticizer, and a hydration control agent (col.4, lines 20-26; col. 5, lines 38-40; and col.6, lines 35-42), a matrix shaped like a wound dressing (col.3, lines 40-45), and a cross linking catalyst. Nangia further discloses that the active agent may be incorporated in the matrix, but does not disclose any other delivery vehicle. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to incorporate the active agent into the matrix and not within another delivery vehicle to prevent the negative effects of system-wide administration.

Claims 7-9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nangia in view of Romans ('552).

Nangia discloses the invention substantially as claimed; however, Nangia does not disclose an active agent consisting of metals, soluble silver chloride, a stabilizing agent, or copper chloride. Romans teaches a composition for use in treating wounds comprising metals (col.2, lines 3-10), soluble silver chloride (col.3, lines 1-6), a stabilizing agent and copper chloride (col.1, line 60 to col.2, line 10). Romans further teaches that it is known to use metal ions to stabilize silver when used to deter the growth of microbes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an active agent consisting of metals, soluble silver chloride, a stabilizing agent, and copper chloride to deter the growth of microbes in the wound.

#### ***Allowable Subject Matter***

Claims 10-16 are allowed.

Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed April 29, 2002 have been fully considered but they are not persuasive. The Applicant has argued that Nangia does not disclose an active

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agent directly incorporated into the matrix and not incorporated within another delivery vehicle prior to incorporation into the polymer matrix. In response, claims 10-16 have been indicated as allowable. Claim 1 recites the limitation "an active agent directly incorporated into the matrix and not incorporated within another delivery vehicle".

Nangia discloses an active agent incorporated into the matrix (col.4, lines 55-60), but does mention any other delivery vehicle. Therefore, the Examiner is interpreting the limitation as being broadly covered by Nangia.

Claim 15 has been allowed, and claims 18-20 have been objected to; therefore, all arguments pertaining thereto are moot.

The Applicant has argued that the Romans reference does not teach or suggest a polymeric matrix comprising a nongellable polysaccharide and active agent incorporated into the matrix. In response, Romans was incorporated as a teaching of metals, soluble silver chloride, a stabilizing agent, and copper chloride not disclosed by Nangia. Nangia disclosed the use of various antimicrobials, but was silent as to the types that may be used, which warranted the incorporation of the Nangia reference.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

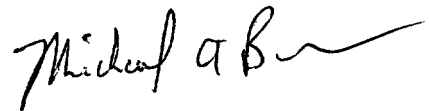
The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272.

LMH

July 28, 2002



Michael A. Brown  
Primary Examiner